

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2017**

Introduced by Senator Pavlov

ENROLLED SENATE BILL No. 401

AN ACT to amend 1980 PA 300, entitled "An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; to authorize and make appropriations for the retirement system; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 5, 41, 41b, 42, 43a, 69, 69c, 69f, 70, 71, 75, 81c, 81d, 108, 127, 131, and 131a (MCL 38.1305, 38.1341, 38.1341b, 38.1342, 38.1343a, 38.1369, 38.1369c, 38.1369f, 38.1370, 38.1371, 38.1375, 38.1381c, 38.1381d, 38.1408, 38.1427, 38.1431, and 38.1431a), sections 5, 42, 43a, 108, and 131 as amended and sections 81d and 131a as added by 2012 PA 300, section 41 as amended by 2016 PA 136, sections 41b, 81c, and 127 as added by 2010 PA 75, sections 69, 69c, and 70 as amended and section 69f as added by 1989 PA 194, section 71 as amended by 1996 PA 268, and section 75 as amended by 2006 PA 617, and by adding sections 79b and 92c.

The People of the State of Michigan enact:

Sec. 5. (1) "Member" means a public school employee, except that member does not include any of the following:

(a) An individual enrolled in a neighborhood youth corps program operated with funds from the federal office of economic opportunity or an individual enrolled in a comparable youth training program designed to prevent high school dropouts and rehabilitate high school dropouts operated by an intermediate school district.

(b) An individual enrolled in a transitional public employment program and employed by a reporting unit.

(c) An individual employed by a reporting unit while enrolled as a full-time student in that same reporting unit.

(d) An individual who elects to participate in the optional retirement program under the optional retirement act of 1967, 1967 PA 156, MCL 38.381 to 38.388.

(e) A retirant of this retirement system.

(f) An individual, not regularly employed by a reporting unit, who is employed by a reporting unit through a summer youth employment program established under the Michigan youth corps act, 1983 PA 69, MCL 409.221 to 409.229.

(g) An individual, not regularly employed by a reporting unit, who is employed by a reporting unit to administer a program described in subdivision (f), (h), (i), (j), or (k).

(h) After September 30, 1983, an individual, not regularly employed by a reporting unit, who is employed by a reporting unit through participation in a program established under the former job training partnership act, Public Law 97-300, 96 Stat 1322 or beginning July 1, 2000, the workforce investment act of 1998, Public Law 105-220, 112 Stat 936.

(i) An individual, not regularly employed by a reporting unit, who is employed by a reporting unit through participation in a program established under the PATH program under section 57f of the social welfare act, 1939 PA 280, MCL 400.57f.

(j) An individual, not regularly employed by a reporting unit, who is employed by a reporting unit through participation in a program established under the Michigan community service corps program, first established under sections 25 to 35 of 1983 PA 259.

(k) An individual, not regularly employed by a reporting unit, who is employed by a reporting unit through participation in a program established under the older American community service employment program under the older American community service employment act, title V of the older Americans act of 1965, Public Law 89-73, 42 USC 3056 to 3056p.

(l) An individual, not regularly employed by a reporting unit, who is employed by a reporting unit in a temporary, intermittent, or irregular seasonal or athletic position and who is under the age of 19 years.

(m) An individual, not regularly employed by a reporting unit, who is employed by a reporting unit only in a temporary position to assist in the conduct of a school election.

(n) A qualified participant who makes a valid election under section 81d(1) to not become a member of Tier 1.

(o) A qualified participant who is not a member of Tier 1 under section 81d(4).

(2) "Membership service" means service performed after June 30, 1945.

(3) "Noncontributory plan" means the plan which began between July 1, 1974 and July 1, 1977, in which the reporting unit elected to discontinue withholding contributions from employees' compensation.

(4) "Noncontributory service" means credited service rendered under the noncontributory plan.

(5) "Nonteacher" means an individual employed by a reporting unit who is not a teacher as defined in section 8.

Sec. 41. (1) The annual level percentage of payroll contribution rates to finance benefits being provided and to be provided by the retirement system must be determined by actuarial valuation under subsection (2) on the basis of the risk assumptions that the retirement board and the department adopt after consultation with the state treasurer and an actuary. An annual actuarial valuation must be made of the retirement system to determine the actuarial condition of the retirement system and the required contribution to the retirement system. An annual actuarial gain-loss experience study of the retirement system must be made to determine the financial effect of variations of actual retirement system experience from projected experience.

(2) Except as otherwise provided in sections 41a and 41b, the annual contribution rates for benefits is subject to all of the following:

(a) Except as otherwise provided in this subdivision, the contribution rate for benefits must be computed using an individual projected benefit entry age normal cost method of valuation. If the contributions described in section 43e are determined by a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted to be unconstitutional and the contributions are not deposited into the appropriate funding account referenced in section 43e, the contribution rate for health benefits provided under section 91 must be computed using a cash disbursement method.

(b) Subject to subdivision (c), the contribution rate for service likely to be rendered in the current year, the normal cost contribution rate, for reporting units must be determined as follows:

(i) Calculate the aggregate amount of individual projected benefit entry age normal costs.

(ii) Divide the result of the calculation under subparagraph (i) by 1% of the aggregate amount of active members' valuation compensation.

(c) Except for the employee portion of the normal cost contribution rates for members under section 41b(2), beginning with the state fiscal year ending September 30, 2018 and for each subsequent fiscal year, the normal cost contribution rate must not be less than the normal cost contribution rate in the immediately preceding state fiscal year.

(d) Subject to the subdivision (e), the contribution rate for unfunded service rendered before the valuation date, the unfunded actuarial accrued liability contribution rate, must be determined as follows:

(i) Calculate the aggregate amount of unfunded actuarial accrued liabilities of reporting units as follows:

(A) Calculate the actuarial present value of benefits for members attributable to reporting units.

(B) Calculate the actuarial present value of future normal cost contributions of reporting units.

(C) Calculate the actuarial present value of assets on the valuation date.

(D) Add the results of sub-subparagraphs (B) and (C).

(E) Subtract from the result of the calculation under sub-subparagraph (A) the result from the calculation under sub-subparagraph (D).

(ii) Divide the result of the calculation under subparagraph (i) by 1% of the actuarial present value over a period not to exceed 50 years of projected valuation compensation.

(e) Except for the employee portion of the unfunded actuarial accrued liability contribution rates for members under section 41b(2), beginning with the state fiscal year ending September 30, 2018 and for each subsequent fiscal year until the unfunded actuarial accrued liability is paid off, the unfunded actuarial accrued liability contribution rate must not be less than the unfunded actuarial accrued liability contribution rate in the immediately preceding state fiscal year.

(f) Beginning with the state fiscal year ending September 30, 2013 and for each subsequent fiscal year, the unfunded actuarial accrued liability contribution rate applied to payroll must not exceed 20.96% for a reporting unit that is not a

university reporting unit. Any additional unfunded actuarial accrued liability contributions as determined under this section for each fiscal year are to be paid by appropriation from the state school aid fund established by section 11 of article IX of the state constitution of 1963. Except as otherwise provided in this section, section 41a, and section 41b, the unfunded actuarial accrued liability contribution rate must be based on and applied to the combined payrolls of the employees who are members or qualified participants, or both.

(g) Beginning with the state fiscal year ending September 30, 2019, and for each subsequent fiscal year, for a reporting unit that is not a university reporting unit, tax supported community or junior college, public school academy, or district library as defined in section 69g, the unfunded actuarial accrued liability contribution rate determined under subdivision (d) must be applied to the reporting unit's payroll, as adjusted under subdivision (h).

(h) Beginning with the state fiscal year ending September 30, 2019, the payroll for which the unfunded actuarial accrued liability contribution rate is applied for a reporting unit described in subdivision (g) must be adjusted by the growth rate of the reporting unit's current operating expenditures in the previous fiscal year based on methods as determined by the retirement system and in consultation with the system's actuary. The adjusted payroll under this subdivision must become the basis on which the contribution rate provided under subdivision (d) for each subsequent state fiscal year is determined for a reporting unit described in subdivision (g).

(i) Beginning with the state fiscal year ending September 30, 2016 and for each subsequent state fiscal year, the unfunded actuarial accrued liability contribution rate applied to the combined payroll, as provided in section 41a, must not exceed 25.73% for a university reporting unit. Any additional unfunded actuarial accrued liability contributions as determined under this section for each fiscal year for university reporting units are to be paid by appropriation under article III of the state school aid act of 1979, 1979 PA 94, MCL 388.1836 to 388.1891.

(3) Before November 1 of each year, the executive secretary of the retirement board shall certify to the director of the department the aggregate compensation estimated to be paid public school employees for the current state fiscal year.

(4) On the basis of the estimate under subsection (3), the annual actuarial valuation, and any adjustment required under subsection (6), the director of the department shall compute the sum due and payable to the retirement system and shall certify this amount to the reporting units.

(5) Except as provided in section 41b, the reporting units shall pay the amount certified under subsection (4) to the director of the department in equal payroll cycle installments for unfunded actuarial accrued liability contributions and payroll cycle installments for normal cost contributions.

(6) Not later than 90 days after termination of each state fiscal year, the executive secretary of the retirement board shall certify to the director of the department and each reporting unit the actual aggregate compensation paid to public school employees during the preceding state fiscal year. On receipt of that certification, the director of the department may compute any adjustment required to the amount due to a difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate. The difference, if any, must be paid as provided in subsection (9). This subsection does not apply in a fiscal year in which a deposit occurs under subsection (14).

(7) The director of the department may require evidence of correctness and may conduct an audit of the aggregate compensation that the director of the department considers necessary to establish its correctness.

(8) A reporting unit shall forward employee and employer social security contributions and reports as required by the federal old-age, survivors, disability, and hospital insurance provisions of title II of the social security act, 42 USC 401 to 434.

(9) For an employer of an employee of a local public school district or an intermediate school district, for differences occurring in fiscal years beginning on or after October 1, 1993, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate described in subsection (6), if any, must be paid by that employer in the next succeeding state fiscal year and a minimum of 25% of the remaining difference must be paid by that employer in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. For an employer of other public school employees, for differences occurring in fiscal years beginning on or after October 1, 1991, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate described in subsection (6), if any, must be paid by that employer in the next succeeding state fiscal year and a minimum of 25% of the remaining difference must be paid by that employer in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. In addition, interest must be included for each year that a portion of the remaining difference is carried forward. The interest rate must equal the actuarially assumed rate of investment return for the state fiscal year in which payment is made. This subsection does not apply in a fiscal year in which a deposit occurs under subsection (14).

(10) Beginning on September 30, 2006, all assets held by the retirement system must be reassigned their fair market value, as determined by the state treasurer, as of September 30, 2006, and in calculating any unfunded actuarial accrued liabilities, any market gains or losses incurred before September 30, 2006 may not be considered by the retirement system's actuaries.

(11) Except as otherwise provided in this subsection, beginning on September 30, 2006, the actuary used by the retirement board shall assume a rate of return on investments of 8% per annum, as of September 30, 2006, which rate may only be changed with the approval of the retirement board and the director of the department. Beginning on July 1, 2010, the actuary used by the retirement board shall assume a rate of return on investments of 7% per annum for investments associated with members who first became members after June 30, 2010, and before February 1, 2018, which rate may only be changed with the approval of the retirement board and the director of the department. Beginning on February 1, 2018, the actuary used by the retirement board shall assume a rate of return on investments of 6% per annum for investments associated with members who first became a member on or after February 1, 2018, which rate may only be changed with the approval of the retirement board and the director of the department.

(12) Beginning on September 30, 2006, the value of assets used must be based on a method that spreads over a 5-year period the difference between actual and expected return occurring in each year after September 30, 2006, and the methodology may only be changed with the approval of the retirement board and the director of the department.

(13) Beginning on September 30, 2006, the actuary used by the retirement board shall use a salary increase assumption that projects annual salary increases of 4%. In addition to the 4%, the retirement board shall use an additional percentage based on an age-related scale to reflect merit, longevity, and promotional salary increase. The actuary shall use this assumption until a change in the assumption is approved in writing by the retirement board and the director of the department.

(14) For fiscal years that begin on or after October 1, 2001, if the actuarial valuation prepared under this section demonstrates that as of the beginning of a fiscal year, and after all credits and transfers required by this act for the previous fiscal year have been made, the sum of the actuarial value of assets and the actuarial present value of future normal cost contributions exceeds the actuarial present value of benefits, the amount based on the annual level percent of payroll contribution rate under subsections (1) and (2) may be deposited into the health advance funding subaccount created by section 34.

(15) Notwithstanding any other provision of this act, if the retirement board establishes an arrangement and fund as described in section 6 of the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1686, the benefits that are required to be paid from that fund must be paid from a portion of the employer contributions described in this section or other eligible funds. The retirement board shall determine the amount of the employer contributions or other eligible funds that must be allocated to that fund and deposit that amount in that fund before it deposits any remaining employer contributions or other eligible funds in the pension fund.

(16) The retirement board and the department shall conduct and review an experience investigation study and adopt risk assumptions on which actuarial valuations are to be based after consultation with the actuary and the state treasurer. The experience investigation study shall be completed and risk assumptions shall be periodically reviewed at least once every 5 years.

(17) Every April 1 following the periodic review of risk assumptions under subsection (16), the office of retirement services on behalf of the department and the state treasurer shall collaborate to submit a report to the senate majority leader, the speaker of the house of representatives, the senate and house of representatives appropriations committees, and the senate and house fiscal agencies. A report required under this subsection must be published on the office of retirement services' website and include at least all of the following:

- (a) Forecasted rate of return on investments at all of the following probability levels:
 - (i) 5%.
 - (ii) 25%.
 - (iii) 50%.
 - (iv) 75%.
 - (v) 95%.
- (b) The actual rate of return on investments for 10-, 15-, and 20-year time intervals.
- (c) Mortality assumptions.
- (d) Retirement age assumptions.
- (e) Payroll growth assumptions.
- (f) Any other assumptions that have a material impact on the financial status of the retirement system.

(18) As used in this section:

(a) "Current operating expenditures" includes functions 1xx, 2xx, 45x, and all object codes except 6xxx, as defined in the most recent "Michigan Public School Accounting Manual Bulletin 1022" as of the effective date of the amendatory act that added this subdivision, and is equal to the total of instructional and support services expenditures, including the total general fund charges incurred in the general, special education, and vocational education funds for the benefit of the current fiscal year, whether paid or unpaid, and all expenditures of the instructional programs plus applicable supporting service costs reduced by capital outlay, debt service, community services, and outgoing transfers and other transactions. Current operating expenditures also include operating funds for any public school or other public

educational entity first authorized or established by a reporting unit described in subsection (2)(g) on or after the effective date of the amendatory act that added this subdivision.

(b) "University reporting unit" means a reporting unit that is a university listed in the definition of public school employee under section 6.

Sec. 41b. (1) Beginning July 1, 2010, the retirement system may determine a separate employer contribution rate for members who first became members on or after July 1, 2010 and before February 1, 2018. Except as provided in this section, the retirement system shall determine the separate employer contribution rate in the manner prescribed in section 41.

(2) Beginning February 1, 2018, the retirement system shall determine a separate contribution rate for members who first became members on or after February 1, 2018. Except as provided in this section, the retirement system shall determine the separate contribution rate in the manner prescribed in section 41, except that any increase or decrease in the unfunded actuarial accrued liabilities associated with members who first became members on or after February 1, 2018 must be amortized on a 10-year level-dollar schedule with a new contribution rate calculated for each year.

(3) All normal cost and any unfunded actuarial accrued liability contributions as determined under subsection (2) must be paid on a cost-sharing basis of 50% by the employer and 50% by the employee. Except as provided in this section, contributions shall be made in the manner prescribed in section 42. An employee contribution for unfunded actuarial accrued liability must not be assessed to an employee based on any portion of an unfunded liability caused by the failure of an employer to make a required contribution. Following the determination of the cost-sharing basis under this subsection, section 41(2)(c) and (e) applies.

(4) The contributions of a member for unfunded actuarial accrued liability must be treated as picked-up contributions under the internal revenue code, deducted by the employer, and remitted as employer contributions to the general fund of the retirement system and must only be used to finance unfunded actuarial accrued liabilities of the retirement system.

(5) To the extent and upon approval by the Internal Revenue Service, the retirement system for the Tier 1 plan and the plan administrator for the Tier 2 plan may also determine the extent to which some or all of the individuals performing services for an entity not participating in the retirement system that receives any funding from the state school aid fund established in section 11 of article IX of the state constitution of 1963 may participate in the Tier 1 and Tier 2 plans.

Sec. 42. (1) Beginning with the state fiscal year ending September 30, 1995 and subject to section 41b, a reporting unit shall contribute the entire amount determined under section 41 to the reserve for employer contributions and to the reserve for health benefits. The reporting unit contribution under this subsection is the exclusive obligation of the reporting unit payable out of general budget resources of the reporting unit, including funds available under local millage and other local resources and from the state school aid allocation to the reporting unit, and is not a separate obligation by specific reimbursement or otherwise of this state.

(2) As authorized by resolution or other enabling act of its governing body, the employer shall pick up all contributions of a member made under section 43a for all compensation paid after December 31, 1986 and reported to the retirement system. Although considered contributions of a member for certain purposes under this act, all contributions picked up must be treated as paid by the employer in lieu of contributions by the employee. Contributions picked up as provided in this subsection must be paid from the same source of funds that is used for paying compensation to the member. The employer may pick up these contributions by either a reduction to the member's cash salary, an offset against a future salary increase, or a combination of a reduction in salary and offset against a future salary increase. This subsection does not apply, and the employer shall not deduct, offset, or remit contributions, until the department receives notification from the United States Internal Revenue Service that contributions picked up will not be included as gross income of the member until they are distributed or made available to the member, retirant, retirement allowance beneficiary, or refund beneficiary.

(3) The employer shall deduct from a member's compensation the contributions for social security provided in 1951 PA 205, MCL 38.851 to 38.871. Contributions must be made while the member remains a public school employee. Each reporting unit official shall deduct the social security contributions from the compensation of each member for each payroll period after the date the employee becomes a member. Social security contributions must be made notwithstanding that the minimum compensation provided by law is changed. Each member is considered to have agreed to the contributions prescribed in this subsection.

(4) Each reporting unit official shall forward member contributions to the retirement system on a schedule and in a manner determined by the retirement system.

(5) Each reporting unit official shall forward the entire employer contribution required by this act to the retirement system on a schedule and in a manner determined by the retirement system.

(6) Each reporting unit official shall submit to the retirement system a report that includes the information for retirement purposes, including, but not limited to, persons employed, retirants performing services at a reporting unit who are employed by an entity other than the reporting unit or who are independent contractors, wages or amounts

paid, hours, and contributions required under this act. The report must include the information on a pay period basis and must be submitted to the retirement system on a schedule and in a manner determined by the retirement system. The superintendent for a reporting unit or the chief administrator for a reporting unit that does not have a superintendent shall complete an annual certification that gives authorization for the employees of the reporting unit to report the information to the retirement system.

(7) If a reporting unit fails to submit a report or contributions, or both, according to the schedule established by the retirement board, the reporting unit shall pay a late fee. If the remittance of contributions is late, the late fee must include interest for each day that the remittance of contributions is late. The retirement board periodically may establish the late fee, which must not be less than \$25.00, and interest charges, which must not be less than 6% per annum. If a reporting unit fails to correct errors on a report before the errors are discovered by the retirement system or if the errors are intentional, the reporting unit shall pay the late fee and interest charges as described in this subsection for each day that the report is in error, unless reasonable cause is shown to the satisfaction of the retirement system.

(8) On written notice from the retirement board, the superintendent of public instruction and the state treasurer shall withhold payment of state funds, in part or in whole, payable from the state school aid appropriation or higher education appropriations to a reporting unit that fails to comply with this section.

Sec. 43a. (1) The contributions of a member who contributes to the member investment plan must be deducted by the employer and remitted as employer contributions to the retirement system pursuant to section 42. A member who contributes to the member investment plan is entitled to the benefits provided in sections 43b and 43c.

(2) Except as otherwise provided in subsection (7), a member who first became a member on or before December 31, 1989 and who elected or elects on or before December 31, 1989 to contribute to the member investment plan shall contribute 3.9% of the member's compensation to the member investment plan.

(3) Except as otherwise provided in subsection (7), a member who first became a member on or before December 31, 1986 but did not perform membership service between December 31, 1986 and January 1, 1990, and who returns to membership service on or after January 1, 1990 and before July 1, 2008, shall make the contributions described in subsection (5).

(4) Except as otherwise provided in subsection (7), a member who first became a member on or after January 1, 1990 and before July 1, 2008 shall make the contributions described in subsection (5).

(5) Except as otherwise provided in subsection (7), a member who first became a member on or after January 1, 1990 and before July 1, 2008 shall contribute the following amounts to the member investment plan:

<u>Member's annual school fiscal year earned compensation</u>	<u>Amount payable to the member investment plan</u>
Not over \$5,000.00	3% of member's compensation
Over \$5,000.00 but not over \$15,000.00	\$150.00, plus 3.6% of the excess over \$5,000.00
Over \$15,000.00	\$510.00, plus 4.3% of the excess over \$15,000.00

(6) Except as otherwise provided in subsection (7), a member who first became a member on or after July 1, 2008 and before February 1, 2018 shall contribute the following amounts to the member investment plan:

<u>Member's annual school fiscal year earned compensation</u>	<u>Amount payable to the member investment plan</u>
Not over \$5,000.00	3% of member's compensation
Over \$5,000.00 but not over \$15,000.00	\$150.00, plus 3.6% of excess over \$5,000.00
Over \$15,000.00	\$510.00, plus 6.4% of the excess over \$15,000.00

(7) Beginning on the transition date, a member described in subsections (2) to (6) who makes the election under section 59(1) and who does not make the attainment date designation under section 59(1) shall contribute the percentage of the member's annual school fiscal year earned compensation to the retirement system as prescribed in section 43g until termination of employment. Beginning on the transition date, a member described in subsections (2) to (6) who makes the election and attainment date designation under section 59(1) shall contribute the percentage of the member's annual school fiscal year earned compensation to the retirement system as prescribed in section 43g until his or her attainment date and shall contribute the percentage of the member's annual school fiscal year earned compensation to the retirement system as prescribed in this section on and after his or her attainment date until termination of employment. Beginning on the transition date, a member described in subsections (2) to (6) who makes or is considered to have made the alternative election under section 59(2)(a) shall continue to contribute the percentage of the member's annual school fiscal year earned compensation to the retirement system as prescribed in this section until termination of employment. Beginning on the transition date, a member described in subsections (2) to (6) who makes the alternative election under section 59(2)(b) shall not contribute any percentage of the member's annual school fiscal year earned compensation to the retirement system under this section or section 43g.

(8) A member who first became a member on or after February 1, 2018 shall contribute his or her normal cost contribution amounts to the member investment plan as described in section 41b(3).

Sec. 69. (1) Until September 29, 2017 at 5 p.m. Eastern Daylight Saving Time, as a condition for granting membership or prior service credit under this act for out of system public education service, a member shall meet both of the following requirements:

(a) Pay to the retirement system an amount equal to the amount the member would have contributed under the schedule governing member contributions in effect at the time of that service had the service been performed under this act or former 1945 PA 136, together with regular interest from the end of the school fiscal year in which service was performed to the semiannual anniversary of the date following the payment.

(b) Have 5 years of reporting unit service credit under this act or former 1945 PA 136, following the out of system public education service.

(2) A member is not entitled to a retirement allowance based on out of system public education service that was performed after July 1, 1974, unless the member meets both of the following requirements:

(a) Before September 29, 2017 at 5 p.m. Eastern Daylight Saving Time, initiates a service credit purchase for that service in an amount equal to 5% of the member's full-time or equated full-time compensation earned in the school fiscal year before the school fiscal year in which the application to purchase and payment for the service credit is made, multiplied by the years of that service the member elects to purchase.

(b) That service is followed by 5 years of reporting unit service credit under this act.

(3) For the purposes of computing payment under this section, the compensation amount used must not be less than the highest school fiscal year compensation previously earned by the member. If the compensation amount used for computing payment under this section exceeds the member's final average compensation determined at the time of retirement, the payment required under this section must be recomputed using the member's final average compensation and a refund must be made based on the recomputation. Credit provided by this section must not be used in satisfying the minimum of 10 years of service credit required under this act for a retirement allowance. A person who had employment with a community mental health service program as described in section 6(2) is not subject to the minimum of 10 years of service credit, if the other requirements of this section are met.

(4) A member must not receive more than 15 years of out of system public education service. A member must not receive more out of system public education service than service performed under this act or former 1945 PA 136, unless, before July 1, 1974, the member applied for out of system public education service credit based on payment of contributions for that service credit as required under former 1945 PA 136. The total out of system public education service credited must be used to compute the member's retirement allowance if the minimum service requirements performed under this act or former 1945 PA 136 are met.

(5) If a member who made payment for out of system public education service dies and a retirement allowance beneficiary has not been designated, or if the member withdraws from service before his or her retirement becomes effective, the payment made by the member under this section must be refunded to the member or to the member's refund beneficiary on request.

(6) Out of system public education service is not creditable toward retirement under this act if the member is or will be receiving a retirement allowance for the same service from another retirement system.

(7) Out of system public education service is not creditable under this act unless similar service performed in a reporting unit would be creditable.

(8) After September 29, 2017 at 5 p.m. Eastern Daylight Saving Time, a member is not eligible to initiate service credit purchase under this section.

Sec. 69c. (1) Until September 29, 2017 at 5 p.m. Eastern Daylight Saving Time, a member may elect to purchase service credit for service performed as an employee in a nonpublic elementary or secondary educational institution or a nonpublic 2- or 4-year institution of higher education in this state, in other states of the United States, or in the territorial possessions of the United States on request and presentation of documentation of the employment rendered that is verifiable from official employment or payroll records or other acceptable documentation as determined by the retirement board, and on payment to the retirement system of the actuarial cost.

(2) Before January 31, 1991, a member may elect to purchase service credit for service performed as an employee in a foreign country at a school for United States personnel or dependents of the United States military or United States department of state personnel; service performed as a full-time teacher with the job corps created pursuant to section 422 of part B of title IV of the job training partnership act, Public Law 97-300, service performed as a teacher in a trust territory or former trust territory of the United States; or service performed as a teacher on an Indian reservation in this country; on request and presentation of documentation of the employment rendered that is verifiable from official employment or payroll records or other acceptable documentation as determined by the retirement board, and on payment to the retirement system of the actuarial cost.

(3) Service must not be credited under this section unless the service being purchased is followed by at least 5 years of reporting unit service credit under this act or former 1945 PA 136. Service purchased under this section must not be used to satisfy the minimum of 10 years of service credit required to receive a retirement allowance under this act. The total service credited under subsections (1) and (2) must not exceed 5 years.

(4) If a member who made payment for service under this section dies and a retirement allowance beneficiary has not been designated, or if the member withdraws from service before his or her retirement becomes effective, the payment made by the member must be refunded to the member or to the member's refund beneficiary on request.

(5) Service must not be credited under this section if the member is or will be receiving a pension or annuity for the same service from another retirement system.

(6) After September 29, 2017 at 5 p.m. Eastern Daylight Saving Time, a member is not eligible to initiate a service credit purchase under this section.

(7) As used in this section:

(a) "Nonpublic elementary or secondary educational institution" means an institution that offers or provides an organized course of academic study primarily oriented toward the awarding of high school diplomas. Nonpublic elementary or secondary educational institution does not include a proprietary school.

(b) "Nonpublic 2- or 4-year institution of higher education" means an institution that offers an organized course of academic study primarily oriented toward the awarding of associate, baccalaureate, master's, doctoral, or other academic degrees. Nonpublic 2- or 4-year institution of higher education does not include a proprietary school.

(c) "Proprietary school" means a school that uses a certain plan or method to teach a trade, occupation, or vocation for a consideration, reward, or promise. Proprietary school includes, but is not limited to, a private business, trade, or home study school.

Sec. 69f. (1) Until September 29, 2017 at 5 p.m. Eastern Daylight Saving Time, a member may elect to purchase not more than 5 years of service credit less the number of years of service credit purchased under sections 6(2)(c), (d), (e), and (f), 64(3), (4), and (5), and 69c(2), or former sections 69a, 69b, 69d, 69e, 74a, 74b, 77, and 78, on request and payment to the retirement system of the actuarial cost.

(2) Service credit purchased under this section must not be used to satisfy the minimum of 10 years of service credit required to receive a retirement allowance under this act.

(3) Service credit purchased under this section must not be used to satisfy the service credit requirement set forth in section 81(1)(a) for a retirement allowance paid before age 46 as provided by section 43b(a).

(4) If a member who made payment for service under this section dies and a retirement allowance is not payable, or if the member withdraws from service and a retirement allowance is not payable, the payment made by the member must be refunded to the member or to the member's refund beneficiary upon request.

(5) After September 29, 2017 at 5 p.m. Eastern Daylight Saving Time, a member is not eligible to initiate a service credit purchase under this section.

Sec. 70. (1) Until September 29, 2017 at 5 p.m. Eastern Daylight Saving Time, as a condition for granting membership or prior service credit under this act for state of Michigan service, a member shall meet both of the following requirements:

(a) Pay to the retirement system an amount equal to the amount the member would have contributed under the contributory plan for service performed before July 1, 1977 under the schedule governing member contributions in effect at the time of that service had the service been performed under this act or former 1945 PA 136, together with regular interest from the end of the school fiscal year in which the service was performed to the semiannual anniversary of the date following payment.

(b) Relinquish all rights to retirement under the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69. Until September 29, 2017 at 5 p.m. Eastern Daylight Saving Time, a member is entitled to receive benefits under sections 43b and 43c for service performed on or after January 1, 1987 if the member pays the difference between the actuarial equivalent of the benefits provided by sections 43b and 43c and by the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

(2) Credit for service performed as a state employee under the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, must be on the same basis for eligibility in all respects for any form of retirement provided in this act as if the service were performed in a reporting unit under this act.

(3) Until September 29, 2017 at 5 p.m. Eastern Daylight Saving Time, a former member who on or before July 1, 1974, was employed in the state classified or unclassified service, whose membership was transferred to the state employees' retirement system under the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, and who again became a member of the retirement system created under former 1945 PA 136 or becomes a member of the retirement system created under this act, is entitled to petition the retirement system in writing for a transfer of the member's accumulated contributions, including interest, and service standing to the member's credit with the state employees' retirement system to this retirement system. On receipt of the member's petition, service standing to the member's credit, accumulated contributions, and interest must be transferred from the employee's savings fund created under the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, to the reserve for employee contributions of this retirement system. An individual whose membership service and accumulated contributions are transferred back to this retirement system immediately shall have the transferred service credit recognized by the retirement system on the same basis as if the individual continuously had been a member of the retirement system.

(4) If a member who made payment for state of Michigan service dies and a retirement allowance beneficiary has not been designated, or withdraws from service before his or her retirement becomes effective, the payment made by the member must be refunded to the member or to the member's refund beneficiary on request.

(5) After September 29, 2017 at 5 p.m. Eastern Daylight Saving Time, a member is not eligible to initiate a service credit purchase under this section.

Sec. 71. (1) Until September 29, 2017 at 5 p.m. Eastern Daylight Saving Time, the retirement board shall grant service credit for the time a member is on a sabbatical leave authorized by a reporting unit, if the member returns to regular employment with the same reporting unit and acquires 1 year or more of subsequent service credit with that same reporting unit and if the member acquired 5 or more years of credited service with the reporting unit immediately before the sabbatical leave.

(2) If the sabbatical leave described in subsection (1) is granted before July 1, 1981, the reporting unit, if the reporting unit had a noncontributory plan at the time the sabbatical leave is granted, or the member, if the reporting unit has a contributory plan at the time the sabbatical leave is granted, shall pay to the system for each year of sabbatical leave credit an amount equal to 5% of the member's compensation earned in the school fiscal year immediately before the school fiscal year in which the sabbatical leave is granted, together with regular interest from the end of the school fiscal year in which the sabbatical leave was or is granted to the earlier of the following dates following the date of payment, the first day of the school fiscal year beginning after the date of payment or the first day of the seventh month of the school fiscal year in which the payment is made. If the reporting unit makes the payment required by this subsection, the reporting unit also shall pay the required interest. If the member makes the payment required by this subsection, the member also shall pay the required interest.

(3) If the sabbatical leave described in subsection (1) is granted after June 30, 1981, the member shall pay an amount equal to 5% of the member's full-time or equated full-time compensation earned in the school fiscal year immediately before the school fiscal year in which payment is made for each year of service credit the member elects to purchase. In computing payment under this subsection, the compensation amount used, except as otherwise provided in this subsection, must not be less than the highest school fiscal year compensation the member earned from the reporting unit that granted the sabbatical leave. If the compensation amount used for computing payment under this subsection exceeds the member's final average compensation determined at the time of retirement, the payment required under this subsection must be recomputed using the member's final average compensation and a refund must be made based on the recomputation.

(4) If, before October 31, 1980, either the reporting unit or the member has contributed 5% of the member's compensation for the school fiscal year in which the sabbatical leave was granted in order to purchase service credit for that sabbatical leave, a further payment for the purchase of service credit for that sabbatical leave shall not be required. If a member has paid the amount required under subsection (2) for the purchase of service credit for sabbatical leave, but later receives a refund of that amount, the member, not the reporting unit, shall repay the amount with regular interest as required by subsection (2) if the member elects to purchase service credit for the sabbatical leave.

(5) Effective October 1, 1981, the retirement board shall grant service credit for the time a member is on either an employee organization professional services leave or employee organization professional services released time authorized by a reporting unit if all of the following conditions are satisfied, as applicable:

(a) For a member who is on either a professional services leave or professional services released time that first began before October 1, 1996, which leave or released time is renewed annually by the reporting unit, the member is included on the reporting unit's reports required by section 42(6) and compensation, service, contribution, and other requirements are reported on the same basis as for those members of the reporting unit who were not granted an employee organization professional services leave or employee organization professional services released time.

(b) For a member who is on either a professional services leave or professional services released time, which leave or released time does not meet the requirements of subdivision (a), the member is included on the reporting unit's reports in the manner required by subdivision (a), except that compensation is reported at the rate of compensation paid to the member by the reporting unit immediately preceding the date the member commenced the professional services leave or professional services released time along with the normal and customary compensation increases that would have been paid to the member by the reporting unit had the member remained in the same position held at the reporting unit immediately preceding the date the member commenced the leave or released time. However, if the member was not working a full 12-month period for the reporting unit immediately preceding the date the member commenced the professional services leave or professional services released time and is working a full 12-month period for the public school employee organization, the rate of compensation paid to the member by the reporting unit immediately preceding the date the member commenced the leave or released time may be increased proportionately to reflect the additional time worked for the public school employee organization. That adjusted compensation, along with the normal and customary compensation increases otherwise allowed in this subdivision, must then be reported as required in this subdivision.

(c) For a member who is on either a professional services leave or professional services released time that first began before October 1, 1996, which leave or released time is renewed annually by the reporting unit, the reporting unit

remits the amount required by section 42 and the percentage of aggregate annual compensation provided from the state school aid fund for current service, if any, the percentage determined for unfunded accrued service as required by section 41, and the employer's share of social security contributions if the reporting unit is responsible for remitting the employee's share of social security contributions.

(d) For a member who is on either a professional services leave or professional services released time, which professional services leave or professional services released time does not meet the requirements of subdivision (c), the reporting unit remits the amounts required by subdivision (c) based on the rate of compensation paid to the member by the reporting unit immediately preceding the date the member commenced the professional services leave or professional services released time along with the normal and customary compensation increases that would have been paid to the member by the reporting unit had the member remained in the same position held at the reporting unit immediately preceding the date the member commenced the leave or released time. However, if the member was not working a full 12-month period for the reporting unit immediately preceding the date the member commenced the professional services leave or professional services released time and is working a full 12-month period for the public school employee organization, the rate of compensation paid to the member by the reporting unit immediately preceding the date the member commenced the leave or released time may be increased proportionately to reflect the additional time worked for the public school employee organization. That adjusted compensation, along with the normal and customary compensation increases otherwise allowed in this subdivision, must then be reported as required in this subdivision.

(6) The reporting unit must be reimbursed those sums paid to the retirement board under subsection (5) by the member or the public school employee organization on a current basis. A member who has credited service as an employee of a school district of the first class, as described in part 6 of the revised school code, 1976 PA 451, MCL 380.401 to 380.485, for a leave of absence effective before October 1, 1981, shall continue to receive credit based on the law of this state in effect at the time the leave of absence was initially effective.

(7) After September 29, 2017 at 5 p.m. Eastern Daylight Saving Time, a member is not eligible to initiate a service credit purchase under subsections (1) and (3).

Sec. 75. (1) Until September 29, 2017 at 5 p.m. Eastern Daylight Saving Time, a member who left or leaves service as a public school employee; who left or leaves out-of-system public education service; or a member of the state employees' retirement system under section 13 of the state employees' retirement act, 1943 PA 240, MCL 38.13, who left or leaves service as a state employee for purposes of parental leave who subsequently becomes a member of this retirement system without other intervening employment of more than 20 hours per week for each week for which service credit was claimed may purchase service credit for the time period or periods during which the person was separated from service because of parental leave if the member satisfies the requirements of this section. The member shall submit an application as described in subsection (5) and shall pay the actuarial cost to the retirement system. The total service credited under this section must not exceed 5 years. A member requesting purchase of service credit under this section shall certify to the retirement system the purpose for which the member took leave or was separated from service as a public school employee; a person performing out-of-system public education service; or a member of the state employees' retirement system under section 13 of the state employees' retirement act, 1943 PA 240, MCL 38.13.

(2) Service credit purchased under this section must not be used to satisfy the minimum of 10 years of service credit required to receive a retirement allowance under this act.

(3) If a member who made payment under this section dies and a retirement allowance beneficiary has not been designated, or if the member leaves reporting unit service before his or her retirement becomes effective, the payment made by the member must be refunded on request to the member or to the member's refund beneficiary.

(4) A member who reduces hours of employment with a reporting unit for purposes of parental leave or a person who reduces hours of out of system public education service for purposes of parental leave and who subsequently becomes a member of the retirement system may purchase service credit for those hours by which employment was reduced if all other requirements of this section are met.

(5) A member requesting purchase of service credit under this section shall submit an application as prescribed by the retirement system in which the member shall certify the time period claimed for parental leave and the purpose of the parental leave. If the request for purchase of service credit under this section is a result of leave taken to care for the member's child by birth or adoption, the member also shall submit a certified copy of a birth certificate or adoption document from the appropriate court of jurisdiction.

(6) Parental leave is creditable under this act until the child, by birth or adoption, attains age 18 or is married, whichever occurs first.

(7) After September 29, 2017 at 5 p.m. Eastern Daylight Saving Time, a member is not eligible to initiate a service credit purchase under this section.

(8) As used in this section, "parental leave" means either of the following:

(a) The presence of the member in the active participation or supervision in the day-to-day, ongoing care or maintenance of his or her child by birth or adoption, for which the member reduced or eliminated the number of hours worked for this state, in out-of-system public education service, or for the reporting unit in a normal work time period.

(b) A member's pregnancy that occurred while a member, whether brought to full term or not, childbirth, and recuperation, for which the member reduced or eliminated the number of hours worked for this state, in out-of-system public education service, or for the reporting unit in a normal work time period.

Sec. 79b. As used in this article, "initiate a service credit purchase" means to complete payment or to enter into a tax-deferred payment arrangement in a form and manner prescribed by the retirement system.

Sec. 81c. (1) A member who first becomes a member on or after July 1, 2010 who no longer is working as a public school employee or in any other capacity for which service credit performed in this state is allowed under this act, on the member's written application to the retirement system, is entitled to a retirement allowance provided for in section 84(1) if the member is 60 years of age or older and has accumulated 10 or more years of credited service pursuant to section 68 as a public school employee and has reached regular retirement age.

(2) The eligibility requirements of subsection (1) must not be modified as provided in section 43b.

(3) The reduction provided for in section 84(2) does not apply to an individual who retires under this section.

(4) Notwithstanding any other provision of this act, a member who first becomes a member on or after July 1, 2010 shall not purchase or transfer service credit under article 4 and shall not have any purchased or transferred service credit included in the calculation of a retirement allowance on retirement.

(5) Beginning October 1, 2019 and for each fiscal year in which an experience investigation study is completed under section 41(16), if the most recent experience investigation study of mortality of the retirement system using a 65-year-old based on a 50-50 male-female blend shows an increase of 1 or more years from the previous experience investigation study of mortality, the retirement board, in consultation with the actuary and the department, shall increase the regular retirement age by at least 1 year up to the total increase in whole-year increments unless the most recent actuarial funded ratio for the benefits funded under section 41b(3) is greater than 100% after accounting for an increase in mortality as reflected in the experience investigation study. Any adjustment to the regular retirement age by the retirement board must take place within 12 months after the retirement board's adoption of the most recent experience investigation study on an effective date as determined by the retirement board. Any required increase to the regular retirement age under this subsection must take into account the cumulative increase in mortality relative to the experience investigation study covering the period 2012 through 2017, less any actual increase already taken into account in a previous increase to the regular retirement age. An adjustment to the regular retirement age under this subsection does not apply to a member who, on the effective date of the increase, is within 5 years of the then current regular retirement age. The retirement board may additionally exclude members who, on the effective date of the increase, are within between 5 and 8 years of the then current regular retirement age.

(6) As used in this section, "regular retirement age" means the following:

(a) For a member who first becomes a member on or after July 1, 2010 and before February 1, 2018, 60 years of age and is not subject to increase as provided under subsection (5).

(b) Subject to subsection (5), for a member who first becomes a member on or after February 1, 2018, 60 years of age.

Sec. 81d. (1) Except as provided in subsection (7), the retirement system shall permit each qualified participant who first becomes a qualified participant and first works for a reporting unit on or after September 4, 2012 to make an election to not become a member of Tier 1 and become only a qualified participant in Tier 2.

(2) The retirement system shall determine a method of accepting elections under subsection (1) and reporting units shall secure those elections during the period beginning on the date of the individual's employment and ending on the expiration of 75 days from the individual's first payroll date. An election under subsection (1) is irrevocable. The retirement system shall provide a form on which each qualified participant who first becomes a qualified participant and first works for a reporting unit on or after February 1, 2018 may make an election under subsection (1). The form described in this subsection must be accompanied by a description of the benefit options. The form must include an acknowledgment that the qualified participant has received the description of the benefit options.

(3) A qualified participant who first becomes a qualified participant and first works for a reporting unit on or after September 4, 2012 and before February 1, 2018 who does not make an election under subsection (1) for any reason on or before the close of the election period is considered to have made an election to become a member of Tier 1 and is subject to all of the following as of the date of his or her employment:

(a) He or she is eligible to accrue any service credit or qualify for any retirement allowance under Tier 1 under the terms as provided in section 81c.

(b) He or she is also a qualified participant under Tier 2.

(4) A qualified participant who first becomes a qualified participant and first works for a reporting unit on or after February 1, 2018 who does not make an election for any reason on or before the close of the election period is considered to have made an election to become only a qualified participant in Tier 2.

(5) An individual who makes the election under subsection (1) on or before the close of the election period or is a qualified participant described in subsection (4) is considered to have made an election to not become a member of Tier 1 and is subject to all of the following as of the date of his or her employment:

(a) He or she is not eligible to accrue any service credit or qualify for any retirement allowance under Tier 1 under the terms as provided in section 81c.

(b) He or she is only a qualified participant under Tier 2.

(6) The retirement system shall collect from an individual described in subsection (1) all amounts required under sections 43a and 131(2) and shall collect all required employer contributions required under Tier 1 from his or her date of employment. If an individual makes a valid election under subsection (1) to not become a member of Tier 1 or is a qualified participant under subsection (4), the retirement system shall determine and implement a method to reconcile employer and employee contributions to be deposited to Tier 2, and any such employee contributions will be considered to be elective contributions under section 131.

(7) A qualified participant who first becomes a qualified participant and first works for a reporting unit following the effective date of the qualifying event is only a Tier 2 qualified participant and is considered to have made an election to become only a qualified participant in Tier 2. As used in this subsection:

(a) "Effective date of the qualifying event" means 12 months after the date that the retirement board receives the valuation report showing that the qualifying event has occurred.

(b) "Qualifying event" means the date on which the actuarial funded ratio for the plan for which the separate contribution rate is calculated under section 41b(2) falls below 85% for 2 consecutive years, based on the actuarial funded ratio using 5-year smoothing of investment returns. For purposes of valuation under this subdivision, the qualifying event does not occur if either of the following applies:

(i) The actuarial funded ratio falls below 85% but would not have fallen below 85% but for the failure of the employer or this state to make a required contribution as calculated under section 41b.

(ii) This state makes an appropriation to the plan described under this subdivision that increases the valuation as described under this subsection to 85% or higher.

Sec. 92c. (1) There is appropriated for the fiscal year ending September 30, 2017, \$5,000,000.00 to the office of retirement services in the department for administration of the changes under the amendatory act that added this section.

(2) The appropriation authorized in subsection (1) is a work project appropriation, and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to administer changes under the amendatory act that added this section.

(b) The work project will be accomplished through a plan utilizing interagency agreements, employees, and contracts.

(c) The total estimated completion cost of the work project is \$5,000,000.00.

(d) The estimated completion date for the work project is September 30, 2018.

Sec. 108. (1) This section is enacted pursuant to federal law that imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code, 26 USC 401, and that the trust be an exempt organization under section 501 of the internal revenue code, 26 USC 501. The department shall administer the retirement system to fulfill this intent.

(2) The retirement system shall be administered in compliance with the provisions of section 415 of the internal revenue code, 26 USC 415, and regulations under that section that are applicable to governmental plans and beginning January 1, 2010, applicable provisions of the final regulations issued by the internal revenue service on April 5, 2007. Employer-financed benefits provided by the retirement system under this act shall not exceed the applicable limitations set forth in section 415 of the internal revenue code, 26 USC 415, as adjusted by the commissioner of internal revenue under section 415(d) of the internal revenue code, 26 USC 415, to reflect cost-of-living increases, and the retirement system shall adjust the benefits, including benefits payable to retirants and retirement allowance beneficiaries, subject to the limitation each calendar year to conform with the adjusted limitation. For purposes of section 415(b) of the internal revenue code, 26 USC 415, the applicable limitation shall apply to aggregated benefits received from all qualified pension plans for which the office of retirement services coordinates administration of that limitation. If there is a conflict between this section and another section of this act, this section prevails.

(3) The assets of the retirement system shall be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and shall not be used for any other purpose. The assets shall not be used for or diverted to a purpose other than for the exclusive benefit of the members, deferred members, retirants, and retirement allowance beneficiaries.

(4) The retirement system shall return post-tax member contributions made by a member and received by the retirement system to a member on retirement, pursuant to internal revenue service regulations and approved internal revenue service exclusion ratio tables.

(5) The required beginning date for retirement allowances and other distributions shall not be later than April 1 of the calendar year following the calendar year in which the employee attains age 70-1/2 or April 1 of the calendar year following the calendar year in which the employee retires. The required minimum distribution requirements imposed by section 401(a)(9) of the internal revenue code, 26 USC 401, shall apply to this act and be administered in accordance with a reasonable and good faith interpretation of the required minimum distribution requirements for all years to which the required minimum distribution requirements apply to the act.

(6) If the retirement system is terminated, the interest of the members, deferred members, retirants, and retirement allowance beneficiaries in the retirement system is nonforfeitable to the extent funded as described in section 411(d)(3) of the internal revenue code, 26 USC 411, and the related internal revenue service regulations applicable to governmental plans.

(7) Notwithstanding any other provision of this act to the contrary that would limit a distributee's election under this act, a distributee may elect, at the time and in the manner prescribed by the retirement board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. This subsection applies to distributions made on or after January 1, 1993. Beginning October 1, 2010, a nonspouse beneficiary may elect to have any portion of an amount payable under this act that is an eligible rollover distribution treated as a direct rollover that will be paid in a direct trustee-to-trustee transfer to an individual retirement account or individual retirement annuity described in section 408(a) or (b) of the internal revenue code, 26 USC 408, that is established for the purpose of receiving a distribution on behalf of the beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity pursuant to section 402(c)(11) of the internal revenue code, 26 USC 402.

(8) For purposes of determining actuarial equivalent retirement allowances under sections 45 and 85(1)(b), (1)(c), (1)(d), and (2), the actuarially assumed interest rate shall be determined by the director of the department and the retirement board in consultation with the actuary with utilization of the mortality tables adopted by the department and the retirement board.

(9) Notwithstanding any other provision of this act, the compensation of a member of the retirement system shall be taken into account for any year under the retirement system only to the extent that it does not exceed the compensation limit established in section 401(a)(17) of the internal revenue code, 26 USC 401, as adjusted by the commissioner of internal revenue. This subsection applies to any person who first becomes a member of the retirement system on or after October 1, 1996.

(10) Notwithstanding any other provision of this act, contributions, benefits, and service credit with respect to qualified military service will be provided under the retirement system in accordance with section 414(u) of the internal revenue code, 26 USC 414. This subsection applies to all qualified military service on or after December 12, 1994. Effective January 1, 2007, in accordance with section 401(a)(37) of the internal revenue code, 26 USC 401, if a member dies while performing qualified military service, for purposes of determining any death benefits payable under this act, the member shall be treated as having resumed and then terminated employment on account of death.

Sec. 127. (1) Each qualified participant, former qualified participant, and refund beneficiary shall direct the investment of the individual's accumulated employer and employee contributions and earnings to 1 or more investment choices within available categories of investment provided by the department. The limitations on the percentage of total assets for investments provided in the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1141, do not apply to Tier 2.

(2) In addition to the categories of investment provided by the department under subsection (1), the retirement system shall offer access to 1 or more fixed annuity options and 1 or more variable annuity options.

Sec. 131. (1) This section is subject to the vesting requirements of section 132.

(2) Unless a qualified participant who is also a member of Tier 1 affirmatively elects not to contribute or elects to contribute a lesser amount, the qualified participant who is also a member of Tier 1 shall contribute 2% of his or her compensation to his or her Tier 2 account. The qualified participant's employer shall make a contribution to the qualified participant's Tier 2 account in an amount equal to 50% of the first 2% of compensation contributed by the qualified participant under this subsection.

(3) A qualified participant may make contributions in addition to contributions made under subsection (2) to his or her Tier 2 account as permitted by the department and the internal revenue code.

(4) On the written determination of the director of the office of retirement services, an employee of an employer that is not a qualified participant may elect to make contributions to a Tier 2 account as permitted by the department and the internal revenue code. An employee as described in this subsection is treated as a qualified participant under this article for the limited purposes of his or her Tier 2 account.

(5) On the written determination of the director of the office of retirement services, an employer may annually elect to make additional matching contributions, including those in addition to matching contributions made under subsections (2) and (6), to an employee's Tier 2 account as permitted by the plan document and the internal revenue code. Matching contributions under this subsection must be made in amounts equal to 50% of the contributions made by the employee not to exceed the first 4% of contributions made in whole percentages only, for any employee in addition to amounts that are already matched under this section, if any.

(6) Except as otherwise provided in section 81d, unless a qualified participant who is only a Tier 2 qualified participant due to an election made under section 81d(1) affirmatively elects not to contribute or elects to contribute a lesser amount, the qualified participant shall contribute 6% of his or her compensation to his or her Tier 2 account. Until January 31, 2018, the qualified participant's employer shall make a contribution to the qualified participant's Tier 2 account in an amount equal to 50% of the first 6% of compensation contributed by the qualified participant under this subsection. Beginning February 1, 2018, the qualified participant's employer shall make a contribution to the qualified participant's Tier 2 account in an amount equal to 100% of the first 3% of compensation contributed by the qualified participant under this subsection. Beginning February 1, 2018, all contributions made by an employer under this subsection must be paid by appropriation from the state school aid fund established by section 11 of article IX of the state constitution of 1963, assuming 100% participation by all qualified participants.

(7) For a qualified participant who is only a Tier 2 qualified participant under section 81d, beginning with the first available pay period after October 1, 2017, the qualified participant's employer shall make a contribution to the qualified participant's Tier 2 account in an amount equal to 4% of the qualified participant's compensation.

Sec. 131a. Tier 2 accounts are subject to the following terms and conditions:

(a) On or before January 1, 2013, the retirement system shall design an automatic enrollment feature that provides that unless a qualified participant who makes contributions under this act elects to contribute a lesser amount, the qualified participant shall contribute the amount required to qualify for all eligible matching contributions under this act. The retirement system shall implement this automatic enrollment feature on or after January 1, 2013, as determined by the retirement system.

(b) Employer matching contributions do not have to be made to the same plan or account to which the elective employee contributions were contributed as the basis for the matching contributions.

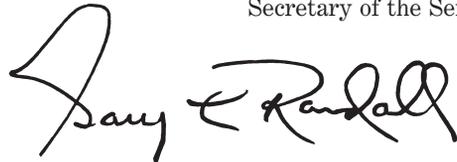
(c) Elective employee contributions shall not be used as the basis for more than an equivalent amount of employer matching contributions or, in the case of matching contributions under section 131(2), 50% of the employer matching contributions.

(d) The retirement system shall design and implement a method to determine the proper allocation of employer matching contributions based on elective employee contributions as provided in this section.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

.....
Governor